## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI NORTHERN DIVISION

GENEVIEVE L. SHARP,	)	
Plaintiffs,	) )	
vs.	) Case No. 2:05CV00045 E	RW
JACOB C. KORNBRUST, et al.,	) )	
Defendants.	)	

## MEMORANDUM AND ORDER

This matter comes before the Court upon this Court's Order to Show Cause [doc. #48] why this matter should not be dismissed for failure to prosecute. Plaintiff has filed a Response to Order to Show Cause [doc. #50] and a Motion for Protective Order [doc. #53]. Also pending before this Court is Defendants' Motion for Sanctions [doc. #39] which was been held in abeyance in order to allow Plaintiff to "demonstrate that she will be compliant if any further modifications" were made to the Case Management Order in order to allow Plaintiff additional time to "recover" and "start on information requested by the Court."

Pursuant to Rule 41(b), a case may be dismissed "[f]or failure of the plaintiff to prosecute or to comply with [the Federal Rules of Civil Procedure] or any order of court." Fed. R. Civ. P. 41(b). Importantly, because dismissal with prejudice is an extreme sanction, it should be used only in cases of wilful disobedience of a court order or in cases of persistent failures to prosecute a complaint, and "the sanction imposed by the district court must be proportionate to the litigant's transgression." *Rodgers v. The Univ. of Missouri*, 135 F.3d 1216, 1219 (8th Cir. 1998). Moreover, "the district court need not [find] that [the litigant] acted in bad faith, only that he acted intentionally as opposed to accidentally or involuntarily." *Id*.

Plaintiff has failed to prosecute this case by failing to comply with this Court's Orders to

appear in Court; failing to file coherent responses, based upon the law, to pending motions; and

repeatedly failing to appear or cooperate with opposing counsel for mediation, depositions,

production of documents and answering of interrogatories. For all of these reasons, Plaintiff's

Complaint will be dismissed.

IT IS HEREBY ORDERED that Plaintiff's Complaint against all Defendants for failure to

prosecute and failure to comply with Court Orders is DISMISSED, with prejudice. Plaintiff's

Motion for Protective Order [doc. #51] is **DENIED**, as moot.

IT IS FURTHER ORDERED that Defendants' Motion for Sanctions [doc. #39] is

**GRANTED.** Defendants may file a Motion for Attorney Fees incurred in this action no later than

December 18, 2006. Plaintiffs may file any objections to the reasonableness of those fees within

fourteen (14) days thereafter. Thereafter, the Court will enter an Order awarding those fees

deemed by the Court to be reasonable.

Dated this 29th day of November, 2006.

E. RICHARD WEBBER

UNITED STATES DISTRICT JUDGE

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